Easily Inspected A DAY OF ARGUMENT All kinds and all prices.

from all stocks. All on separate ta-

AT BARGAIN PRICES

Mostly Dress Goods, Silks, Linens, Luces, Embroideries, Muslins, Sheetings, Flannels, etc.

OUR ANNUAL:

REMNANT SALE

commences to-day. Sale will last as long as the remnants hold out-a week possibly-may be not that long. Big bargains in the lot. First comers get first choice. No two alike.

L. S. Ayres & Co.

PIANOS FOR RENT PIANOS FOR RENT

Largest Assortment. Lowest Rates. Pianos rented in the city tuned free of charge.

D. H. BALDWIN & CO. 95, 97 & 99 North Pennsylvania St.

TONDROUS MIFTS II EDDING

Spend a pleasant hour here, Looking them all o'er.

VASES, LAMPS, SHADES, STANDS, CUPS and SAUCERS, STATUETTES, PEDESTALS, CUT form, CABINETS. | and single pieces

ODD SEATS, BRIC-A-BRAC, FURNITURE, CHINA, full sets

Consider some of the beautiful

WEDDING PRESENTS

They do everybody good-the giver and the receiver. They are good for the seller-that's us-and the buyerthat's our friends.

- ASTMAN. SCHLEICHER Indow Bargain Sale Every Monday.

Telephone 500.

33 South Meridian Street.

THE H. LIEBER COMPANY.



NO SMALLPOX AT ROBY.

Local Secretary Can Find No Trace of It-Precautionary Measures.

Dr. Meicalf, secretary of the State Board

of Health, who is at Roby investigating the smallpox cases, yesterday received two letters from that quarter on the subject. The first was from Dr. H. G. Merz, secretary of the Hammond health board. His letter bearing date of Jan. 12, said: "This morning I was notified that smallpox broke out at Roby. " " I went
there immediately and made a thorough
investigation, inspected every stall and
restaurant on the grounds, but found no
one afflicted with the disease. I also ordered the association to have badges made
for their employes so we can free the
grounds from hangers-on. There are a good
many "bums" who get in and sleep there.
The police force is instructed to clear these
"bums" all out."

Dr. Arthur B. Reynolds, secretary of the

Dr. Arthur B. Reynolds, secretary of the Chicago Health Board, wrote that four cases had been found and had been transferred to the Cook county pest house. Though found in South Chicago they caught Though found in South Chicago they caught the disease, the letter says, at Roby, which Dr. Reynolds calls an "infection center." He says no adequate steps have been taken to suppress the contagion and be offers all the aid in his power. He points out that imperative action should be taken. Prof. Berg, deputy secretary of the State board, suggests that the same admonition applies with much force to the Chicago end of the correspondence.

Protest Against Beer Tax. The executive committee of the Indiana State Liquor League has sent a letter to Congressman Bynum asking him to use his influence against the bill providing for an increase of \$1 a barrel in the beer tax. The committee has asked every member of the league to send a similar letter to the Congressman from his district.

ATTORNEYS IN SMITH CASE CON-SUME THE DAY IN TALKING.

Two Speeches for the Defense and One for the Prosecution-A Night

The Smith murder case will go to the jury at noon to-day. Attorney John B. Elam, of the prosecution, will begin the closing argument at 9 o'clock this mornwill occupy the greater the morning. John S. Dunclosed the prisoner's case last Attorney Spaan spoke the defense yesterday morning and was followed in the afternoon by Congressman Henry. The crowd, yesterday, was as large and feverish and impatient as on any of the preceding days. There were few people in the court room last night, because it was not given out publicly that a night session would be held. Yesterday afternoon, when Mr. Henry, for the State, arose to speak, Mrs. Wands, the mother of the prisoner, was not in her accustomed chair. she came in, however, at the close of the argument and remained until the hour of adjournment. Since the case began many people have remarked the fact that the dld not introduce some of the Nothing of his private life has been brought out save that he was a man of bad moral character. The attorneys for the prosecution say that if the rule of law had permitted, they might have shown Smith up as a man of brutal instinct. This, however, was not gone into because of a sharp move on the part of the defense. By refraining from anything in the nature of a cross-examination as to the prisoner's moral character they deprived the State of the opportunity of introducing testimony setting up specific acts on the part of the prisoner.

It is also said that the prosecution, if it had been desired, would have been able to produce a witness from Anderson who would have testified to a previous acquaintance between Smith and the murdered man. It was asserted that a year ago W. B. Thomas came to Indianapolis to attend an entertainment given by the Elks, and was introduced to Smith while there. It is said the men became "chummy" on short notice, and drank together on the occasion of their first meeting. At 9:30 o'clock yesterday attorney Henry Spaan, with a huge bundle of law books before him, began a strong argument for the defense.

"Gentlemen of the jury," he began, "we live in this country under two sets of laws. One is laid down in the statutes and the One is laid down in the statutes and the decisions of the Supreme courts for the government of citizens, their rights and property, and even life. We are not here as citizens of the State to administer the moral law, but to administer the civil and criminal law of the State as laid down by the acts of the Legislature and the Supreme Court. The moral tribunal is left to a man's conscience; it is between him and his Maker. The civil law, that blads us all as members of this great Common-wealth, is to be administered by the court, wealth, is to be administered by the court, and it is by that law that men's lives and liberties are measured, and by no other. We may have some preconceived ideas of morals, but they have no place in a trial like this. Some of us may believe that the slightest infraction of moral law should be visited by condign punishment. Now, we have not entered into a moral court to try this case. No priest or teacher of the gospel is to tell us the rules of conduct here. This is a court where any citizen of the State may come without fear. It is not to enforce the moral law that you are here to-day; but you come here to enforce the laws of the State of Indiana and nothing else. It is by virtue of that law that we live under the blessings of the nineteenth century. Do you know that our ancestors, from whom we are proud to claim descent, at one time when two citizens got into an altercation, tested the merits of the case by fire? The man who thought he was right put his hand into a pot of boiling water. If it was not burned he was right. If his hand was burned he was wrong. Out of that system we have grown, we have advanced. Now the question is left to the jury. It is they that must decide. Under the wisdom of our law it has been said that twelve men shall be the arbiters of the fate of the man accused. Now, your attention has already been called to this law. The defense in and it is by that law that men's lives and shan be the arbiters of the fate of the man accused. Now, your attention has already been called to this law. The defense in this case is that Smith killed Thomas in self-defense. I don't care to go into any other part of the case, because I believe in my heart that we have made a complete case of self-defense, and that there can be but one completense,

case of self-defense, and that there can be but one conclusion.

Attorney Spaan read from the case of Bryant against the State, 106th Ind., setting out the theory of self-defense. Continuing, he said:

"Where a man's life is in danger, or where, from the action of the assailant, he believes he is in danger of bodlly harm, the right to defend himself may be exercised by him, and he may use it to any reasonable extent. Over eighteen hundred years ago there was a divine personage who walked among men. He laid down a different law. He said if a man should smite you on one cheek you should turn the other to him also. But, gentlemen of the jury, that is not the law governing the right of self-defense in Indiana. What the greater Master said in Gallilee, eighteen hundred years ago, was to govern the years to come, and there may come a time when the words of the blessed Master will be true, but we have not yet arrived at when the words of the blessed Master will be true, but we have not yet arrived at that ideal condition. We are simply advancing along the line. The law takes humanity as it finds it with its passions and education and lack of such. Let us analyze this law of self-defense as laid down by the courts of Indiana. In the first place, the person assaulted has the right to self-defense. Here is a contravention of the idea that a man should turn the other cheek. We, with the old Saxon blood surging in our veins, have a right to resent an insult. We have not yet arrived at the insult. We have not yet arrived at the idea that we must turn the other cheek also. This statute means just what it also. This statute means just what it says, and words to amplify or explain it are simply lost. A man does not have to wait until he sees that the other is about to kill him before acting for himself. He stands upon the dignity of the State of Indiana, and when a man slaps him in the face he has a right to slap back. He can resist force with force, and has a right to defend himself with a pistol or a knife. He does not have to believe that he is to be killed. It simply amounts to this; that if a man is attacked, as our client was if a man is attacked, as our client was, he has a right to repel force by force, and if by mischance, or even purposely, he kills his assallant, he is justified by the law laid down by the Supreme Court of Indiana.

"If a man be met upon the street by a stranger, and that stranger catches him by the throat, he is in a place where he has a right to be, and the right of self-defense comes to him at once. The burglar may be shot down like a dog or knifed to the heart when in the act of robbing the house, but the owner is not guilty of murder. It is not necessary, upon an investigation of a killing, to show the danger was actual. It is sufficient to show it was apparent. If a man is killed when it is not really necessary, but where the danger to the other was imminent, the law justithe the killing. When our client was grappled by the throat by this man he was not bound to say, 'Now, Thomas, are you in earnest in this fight?' No! While he was doing that he would have been choked to death. The necessities of a situation of this kind cannot be determined from the standpoint of a juror, sitting under the protection of the court, but from the circumstances under which our client acted at the time. It's like a soldier going to battle. He simply fights because the situation demands it. Suppose the soldiers in the ranks had hesitated every time they were ordered to charge the breastworks of the enemy, how many battles would have been won by the Union? I have read thrilling accounts of battles in the magazines written by men long years afterward; by men who were not on the actual scene. How could they judge? The general who was there was the man to judge of the situation—the man to say, 'shall we fight to-day or to-morrow?' It is easy to criticise. All it needs is a certain amount of audacity and a large amount of ignorance. This whole tragedy did not occupy three minutes. The assault was imminent; it was made at once, and the Supreme Court says there are times when a man has no time for deliberation; no time for thought. This does not mean that if a man slaps me in the face. I have a right to take a knife and cut out his heart, but it means that if a man is in danger of bodily burm, he must make up his mind what to do, and the court has no right to take a knife and cut out his heart, but it means that if a man is in danger of bodily burm, he must make up his mind what to do, and the court has no right to take a knife and cut out his heart, but it means that if a man is in danger of bodily burm, he must make up his mind what to do, and the court has no right to take a knife and cut out his heart, but it means that if a man is in danger of bodily burm, he must make up his mind what to do, and the court has no right to take a knife and cut out his heart, but it means that if a man is in danger of bo fles the killing. When our client was grappled by the throat by this man he

deadly weapon. I'll tell you what a dangerous weapon means. It means the bowie knife or the revolver. No man was ever convicted for carrying a pocket-knife on the charge of carrying concealed weapons. If that were true every man in this court room, and perhaps some of the ladies, too, could be convicted. Mr. Wiltsie says you are to judge this weapon by the work it did. That is not true. It is not the law and not even common sense. A thing that every man carries is not a deadly weapon. Now, gentlemen, what is the evidence in this case as applied to the law of self-defense? Mr. Henry, in his opening statement, sald the evidence in the case would show that a grudge had existed between these two men. There has been a complete failure to show anything like that. On the contrary, the gentlemen, in opening the arcontrary, the gentlemen, in opening the argument here, said there had been no evidence that the men had met before. That takes out of the case an important element, and it is an argument in favor of our theory of self-defense. No grudge; no threats whatever. Now, did Mr. Smith know that Western B. Thomas was at Brighton Beach, at daybreak, on the morning of the 12th of July? Nobody has ever pretended that he knew Thomas was there. 'I want to call your attention to some the evidence. I want to say that Mr. Wiltsie represents the State of Indiana, and what he has said ought to bind the State. They ought not come to this jury after we have answered the State of Indiana. It is unfair, and that is all I will say about it. The prisoner in this case has told you frankly that he went to the resort to get a glass of seleger; that he did not know rankry that he went to the resort to get a glass of seltzer; that he did not know Thomas was there. He did not see him; and the woman, Myrtie Overturf, has testified to the same story. The evidence shows that Thomas came from Brazil on that day with his friends. Smith had no opportunity that Thomas came from Brazil on that day with his friends. Smith had no opportunity of knowing he was in the city. There was no chance for the men to have met that night. The defendant has told you that he had been drinking and that he went there to get something to clear up his head. It has been shown that they had not met, and all this simply shows that, in the wisdom of an overshadowing providence, our lines will cross. Who could have said that on that fatal morning Western B. Thomas and Winifred E. Smith would have met at that resort? There have been lines started centuries ago that, before we lie dead in the arms of our beloved, may meet and cross our lives. Mr. Hunt, the bartender. I believe, although he was a witness for the State, was so under the influence of whisky that morning that his evidence should not be taken in this case. We have proved that Suss was drunk and the State has proved that Hunt was drunk. A detective had both men in his charge, and why should the coroner have put them into the keeping of an officer if they were sober? Hunt did not hear all that passed between those men. He said he had gone to draw some beer when the trouble began. Then what does he say? 'I saw this man put his hands on Smith's shoulder, and the both went out at the door together.' Mr. Wiltsie said the witnesses for the State fell below the mark. Well, you can't send a man to the penitentiary because the prosecution chances to meet with a disappointment. the mark. Well, you can't send a man to the penitentiary because the prosecution chances to meet with a disappointment. You have to decide the case under the law and evidence. If we cannot rely upon the cath taken by a jury to decide upon the law and evidence, what is to become of our American institutions? What sacredness is there in liberty? What is the defense of life?" Referring to the chief witness of the defense attorney Spaan said in conclusion:

defense, attornev Spaan said in conclusion: PITY FOR THE FALLEN. "The State says this woman, Myrtle Overturf, is not entitled to any credit as a witness, because she is not a woral woman. Many sneers are indulged in at her expense, because of her relations with the defendant, Winifred Smith. She is, gentlemen of the jury, not a virtuous woman. She belongs to that unfortunate class whose only refuge seems to be the walks of life that finally lead to destruction. They say that she has a bad moral character. Granted; but the inquiry here is, is she entitled to credit? Has she told the truth? It is to credit? Has she told the truth? It is easy to decry a woman like this. It is easy for people who believe themselves possessed of superior holiness to flaunt and jeer at this woman. It reminds me of a scene that took place over eighteen hundred years ago. The Master was sitting within the temple teaching the people the lesson of truth and teaching the people the lesson of truth and morality. Certain Scribes and Pharisees, with their ample garments about them, came into the presence of the Master with a woman in their midst, and they said, seeking to tempt him: 'This woman was caught in the very act of adultery, and, according to the law of Moses, she ought to be stoned to death. What sayest Thou?' The Master, with withering scorn on His face, mingled with infinite pity, turned to the hypocrites about him and said: 'Let him who is without sin cast the first stone.' who is without sin cast the first stone. When He looked up there was not a Phari When He looked up there was not a Pharisee in His presence. They stood condemned by their own conscience. That voice of the blessed Master has come down to us, reverberating through the ages like the sound of a deep-toned bell, full of pity and mercy for such women as Myrtle Overturf. When the hoary-headed sinners had left His presence; when the self-righteous accusers had taken refuge in flight. He turned to the woman. Oh, with what infinite pity he said: 'Where are all thine accusers?' She answered: 'They have gone, not one of them cendemn me.' The answer came quietly, gently, but with all the love of the ages in His voice: 'Neither do I condemn thee; go thou and sin no more.' Let us apply this spirit to the lost woman, Myrtle Overturf.

"The right of self-defense is a paramount one: it is a right that exists in favor of all

me: it is a right that exists in favor of all creatures, from the smallest molusk that lies slumbering in the slime of the sea, to man, who, in the scale of creation, touches the hem of the garments of the angels,"

FOR THE STATE.

Charles L. Henry Appeals to the Jury

to Vindiente the Law. Charles L. Henry, .on behalf of the State, began his reply to the argument of Attorney Spaan, at 2 o'clock yesterday afternoon, occupying the time of the court until 4 o'clock. Substantially he said: "Up to this time the State has not been heard concerning any of the theories set out by the defense. You have heard, gentlemen of the jury, two able arguments for the defendant. Now, it shall be my purpose to confine myself as nearly as possible to the discussion of the question before us. I will not take up your time with the law questions; the court will instruct you as to that. It is no light thing for a jury to be called upon like this. There is a grave responsibility resting upon you. It is not a pleasant task for any of us; but there is duty resting upon us, a duty that we must perform in order that the community may be protected. The State is not responsible for the class of witnesses we have had. It has done the best it could with the witnesses it has been compelled to use. I want to say the defense can go no further than the State in asking you to try this case on the evidence alone. We don't want any

other influence to move you.

"This indictment covers not only murder in the first and second degrees but it covers manslaughter. The law showing the differences in conditions, that constitute the various degrees of crime, has been read to you. I do not need to call your attention to that for I take it that you are intelligent enough to form your ideas without my assistance. If there were no prejudice on the part of Winefred E. Smith in the killing of Western B. Thomas there can be no conviction of murder in the first degree. I think I can show you that this defendant cannot claim self-defense, but that he was guilty of murder in the second degree, if not the first degree. Before I take up the evidence in detail I must talk of the surroundings of this case; of some things that go to tell us how much credence can be placed in certain witnesses. If Mr. Smith is not found guilty in this case it is because his testi-mony is true and that given by the other

twice a week for years and whom he was with that night. This is the kind of a woman who corroborates his testimony in woman who corroborates his testimony in many respects.

"Is her testimony entitled to respect in this case? We do not need to argue that she has an interest in the case. But, beyond that, there are weighty reasons why her testimony is not entitled to credit. We have proved that her general moral character is bad. She stands challenged, if not wholly proved, as a woman of general bad moral character. She has admitted herself, in a statement to the police department, that she did not see the trouble that ied up to the murder. Her testimony is unreliable because it is not in harmony with other witnesses, except, perhaps, the defendant himself. Then I take it that her story is not to be believed in this case. My friend Spaan has dwelt largely upon the testimony of Suss. In respect to character he stands better than Smith and the girl, but in many respects they are three of a kind. She lived in a house of ill repute; Smith visited her there, and Suss played the piano in a house of that character. These three witnesses are the only ones that have said anything decreasure. played the piano in a house of that character. These three witnesses are the only ones that have said anything derogatory to the conduct of Western B. Thomas on that morning. There is no self-defense in this case; it is only a question of the degree of guilt of Winifred E. Smith. According to the testimony of Smith, he took his two nieces and the daughter of Mr. Sells out for a ride. I shall not comment upon that, but it is indeed strange that it should be said he was for an hour or two in the society of these innocent children before going to Myrtle Overturf. They spent the night at three road houses—these places and their location are not important, because they are all of the same character.

character.

"Mr. Smith says that when he left Thompson's house he concluded to go over to the Beach and get a glass of seltzer. Mr. Spaan said it was to clear up his head, but Mr. Spaan claims to know so little about barroom ethics that I hesitate to take him as authority. Now, I do not propose to disclaim all knowledge of barroms. If Smith wanted a glass of seltzer, why did he not get it at Thompson's? Seltzer, gentlemen, must have had a potent effect upon Mr. Smith. When he reached Brighton Beach, why did he not walk into the saloon at the side of that walk into the saloon at the side of that fractious horse of his, instead of going around through the rear? That is not imaround through the rear? That is not important, however, except to show that his story is false. Isn't it a pretty story? But what is it for? Let us see. Suss testifies that Smith came into the barroom declaring that he was to have it out with somebody. It is these little things that throw the bright light upon the testimony of this defendant. I am going through the evidence to see how he tells the story, because, if you don't believe his evidence, you must find him guilty of murder in the first or second degrees. He says Mr. Thomas laid his hand upon his left shoulder. Then he says Lynch came up and said, 'Smith's a friend of mine,' and that Thomas pushed Lynch away and struck him (Smith) in the mouth. He said that he was standing at the door, and when he was standing at the door, and when Thomas struck him, stepped back out of the door. We insist the conditions show that Mr. Thomas did not hit Smith at all. I take it that if this was the only evidence in the case—standing as Smith does as a witness; impeached as a man

of general character—you would not find that the defendant was acting in self-defense. There has been no evidence to show that Thomas made such an attack upon this man, or that he was entitled to believe that he was to be injured. Smith said the second stroke was outside of the door, but it did not knock him out of his tracks. Was that such an attack as would entitle him to take out his knife and cut the throat of the other man? I was thinking of this case yesterday, while attorney Smith was addressing you, and I wondered now he could expect the jury to believe Smith could get his knife out of his pocket and open it during such a struggle as that. Could you believe for a moment splendidly developed Thomas could reach into his pocket and get his knife? life had that knife open before, and every man on this jury believes it.
"I want to introduce a few things to show how much Winifred Smith was hurt.
Dr. Morgan was called by Dr. Wands to examine this defendant in the station house. I have no personal acquaintance with Dr. Morgan, but I believe him to be with Dr. Morgan, but I believe him to be an estimable gentleman, and think he went on the witness stand, actuated only with a desire to treat this case fairly. He says there was a scratch on the lip, but no blood. A scratch on the ear, perhaps on the forehead, but none of these wounds gave evidence of having bled. Under the lip the physician could notice that the tissues were swollen. Do you believe that Western B. Thomas, as his frame is described by Dr. Marsee, tall, and strong. Western B. Thomas, as his frame is described by Dr. Marsee, tail, and strong, and active, struck Smith full in the mouth? And it was necessary for the doctor to examine it to flind that it was swollen? Was that such an attack to warrant Smith in taking a knife and cutting the throat of Western B. Thomas? Do you believe that this athlete hit Winnie Smith full in the face and left no mark? If so, was that such a blow as justified him in taking the life of Mr. Thomas? Why, gentlemen, the marks on Mr. Smith's face were only such scratches as would be made by school children in a rough and tumble encounter. We

dren in a rough and tumble encounter. We might have concluded that this man had a fight with the woman if we had had no account of this case. Gentlemen, those scratches were made by Thomas while endeavoring to fight off the murderer. Was Winnie Smith hurt? Not in the least. He went straightway and washed the blood of went straightway and washed the blood of the murdered man from his hands. He did not see the corpse of the man he had slain, when he drove back to the resort, after the deed. Then he drove off again. D'd he go to his mother, to his kind-hearted step-father, or to any place where the mind of the man with healthy morals would lead him? No, he did not, but with this harlot at his side, he went to a hotel at Broad Ripple and there took a room with her. "I want to ask you a question. Does not I want to ask you a question. Does not be conduct of this defendant alone show such depravity as would weaken the testimony he would give? Take Myrtle Overturf. By her own testimony she has, for years, resided in houses of ill repute. Her story of the night's doings, up to the time of the murder, agrees with Smith's story. She follows the testimony of Smith as to the trouble in the sales. the trouble in the saloon, and until the struggling men get out at the door. Then her horse got frightened and she did not see any more of it, but we asked her on cross-examination about her statement to the coroner. She said Smith left the buggy in the rear and she drove around to the side door. She did not know what occurred between Smith and those men in the saloon. Put her testimony with that of Smith's. Weigh them carefully and then ask yourselves, if there were no other witnesses, would you have any testimony showing the would you have any testimony snowing the killing was done in self defense.

"I haven't much to say about Suss, the piano player. He has, since this murder, been in jail and associating with Winnie Smith. His testimony, on the whole, indicates a disposition to favor the defendant in this case. The State did not make the circumstances in the affect.

circumstances in the affair. It is only presenting them as they are. The State did not select these witnesses. It is only using those who were there and saw the deed. If anybody has had any influence, over these witnesses it has not been the prosecution. But you know George Suss has, at all times had not been the prosecution. all times, been ready to say anything in the world the defense wanted him to say. They say Suss was drunk. Well, let's see if he was. The coroner says he was drunk, but the coroner mistook his statement for that made by Hunt. The officers of the law say Suss was sober. He was a man who drank liquor. There is a secretion about that liquor. There is no question about that, but he was not so drunk that he could not do those things he was employed to do. He had sense enough to pick up that bloody knife in the yard and carry it to the bar-

"The State has no disposition to wander away from the theories it has in the case, nor will there be any divergence of views as to how this killing occurred. Outside of his answers, when he was being led by the defense, Mr. Suss's testimony shows that Winnie Smith was guilty of murder in the first degree. Western B. Thomas lies cold in the grave to-day. He can't be here to gainsay the testimony of Winifred E. Smith and his harlot. But, notwithstanding all this, the State is fortunate to have a witness whom they can't impeach. That is Harry Whitman, the hackman. Not one of these witnesses have said Mr. Thomas ever spoke in an insulting tone of voice. Those

at any moment spoke in an insuiting manner, until Smith cut him. Whitman says, even as he lay there dead, his face was smiling as it had through it all. Why. gentlemen, if it were true that Thomas, with his life blood flowing out, followed Smith to the buggy, would he not, even with his animal instinct, attempt to fight off the fate to the last? Remember, that blow in the neck was from behind. This is a perform that the second of the last? at any mo nent spoke in an insulting mana serious matter; a grave occasion, but an important one. You will weigh the evidence, you will discharge your duty as men and good citizens, and I shall be satisfied with your verdict."

JOHN S. DUNCAN FOR DEFENSE. He Reviews the Evidence in the Case

-Brings Out Its Bright Side. Attorney John S. Duncan arose to begin the closing argument for the prisoner at 4 o'clock. He spoke until 5 o'clock, and resumed again at 7:30. Mr. Duncan, in his appeal, followed much the same line adopted by those who had preceded him. He diligently prosecuted the theory of selfdefense throughout.

"Gentlemen," Mr. Duncan began, after quoting a ruling of the Supreme Court as to the law of self-defense, "the law has said it is the duty of a jury in the trial of an accused to reconcile the testimony as nearly as it can, so as to decide in favor of nearly as it can, so as to decide in favor of the accused. The court says that it is a principle of law that the defendant enters the case clothed with the presumption of innocence, and this must remain with him throughout the trial. The question I desire to discuss, and the real question in this case, is whether or not this defendant acted in self-defense. Are you, as twelve free and impartial men, determined to try this case on the law? Are you prepared to say you are satisfied beyond all reasonable doubt that the defendant did not act in self-defense? Was the defendant acquainted with Western B. Thomas? Did he know that such a person lived? Did he expect on that night to meet this man at Brighton Beach? The evidence shows that Thomas Beach? The evidence shows that Thomas and his friends remained at the Bates House all evening, before he started out on what proved to be the last debauch of his life. At that time this defendant was out riding with his little nieces. Do you tell me that a man with the wicked mind they have given Winnie Smith would be out riding with his little nieces at one hour, and the next hour take the life of a human riding with his little nieces at one hour, and the next hour take the life of a human being in cold blood. But for the invitation of some friends to go to Thompson's road house, Western B. Thomas would be alive to-day. What little things change the natural course of our lives! Both sides of this case have been studious in refusing to make inquiry as to who those friends were. The fact that none of them have been called here to contradict the statements of Winnie Smith is evidence that he told the truth.

"Mr. Henry asks why did not the defendant get a glass of seltzer at Thompson's. For aught Mr. Henry knows he did. I can imagine that a man who has been out drinking all night can stand more than I can imagine that a man who has been out drinking all night can stand more than one glass of seltzer. Is there any evidence on the part of the State that Smith knew Thomas would be at the Beach that night? They say that Thomas made the statement that he knew Smith. What was Smith's answer. 'Well, I don't know you.' Sussiclaimed that Smith wanted to have it out with somebody. Now, that is all they have in this case, with the State of Indiana and the money of a wealthy family back of the prosecution. Who is this man Suss? You have seen him on the stand. I say the best way in the world to determine who a man is is to look at his face and hear him talk. You saw that little fellow as he sat there. He has been playing a piano in houses of prostitution and at road houses, and part of his duties was to see that as much beer was consumed as see that as much beer was consumed as possible. I have a right to believe the poor fellow's mind has been soaked in beer so long that he has become besotted. Is there

a man on this jury that would decide against an egg-sucking dog on such testi-mony as that. Suss says Smith drank no liquor at the Beach, but Hunt says they liquor at the Beach, but Hunt says they drank a dollar's worth. Here are statements contradicted by the State's own witnesses. The State itself, for the purpose of contradicting witnesses, was allowed by the court to introduce evidence from the coroner's record. What interest has Dr. Beck in this case? He says Suss was drunk. I grant that detective Kaehn says he was sober, but if he was in that condition why was it that Coroner Beck put him in the custody of an officer?

"Superintendent Powell thinks he was sober. Why, then, did not they take his deposition earlier? All the witnesses they have had to prove he was sober were a detective and a policeman. We have had his conduct on the witness stand; we have him enduct on the witness stand; we have him appearing here as a driveling sot. Now, gentlemen, would you want testimony comgentiemen, would you want testimony com-ing from such a source as that put into the balance against you? They don't stop at that; they seek by insinuations and hints to show that this man was corrupted. They ask you to believe that the counsel for the defense has corrupted this witness. I denounce that charge as false for myself, my co-counsel and the prisoner. They said Smith and Suss associated with each other at the jail, and I say that isn't so. Let them go to the county jail and see where these prisoners have been kept, and they will be ashamed to remember that they charged anything like that. Gentlemen of the jury, wasn't that meeting at Brighton Beach accidental? Who was the aggressor there, as shown by the evidence in the case? What effect was the whisky having on Thomas when he ordered the hackman to drive off and leave Larry McKeon? Thomas had been in a saloon that night. He had not been associating with women, and women, though they may not be as pure as the driven snow, can have a refining influence over a man. Winnie Smith took this woman out to Kissell's garden. His purpose in going there was to sit beneath the

trees and listen to the music.
"Who began the struggle that ended with
the death of Mr. Thomas? Where is there the death of Mr. Thomas? Where is there any evidence showing a desire or disposition on the part of Winnie Smith to do anybody harm? This young fellow, just recovering from a speil of illness, found himself in the grasp of an athlete. He defended himself with a knife, the only thing the State of Indiana can dignify with the name of warmen Look at it. only thing the State of Indiana can dignify with the name of weapon. Look at it, gentlemen. I have always found the zealous prosecutor is not the one who represents the State by election, but the one who represents some one else by employment. When Smith walked into that bar did he speak to Thomas? Did he do anything to attract the attention of the man? Who was it that spoke? That conduct on the part of Thomas was another evidence of the effect that liquor was having upon his disposition. If anybody intended trouble there that night who does the evidence disclosed indicate as the aggressor? Take the evidence of the State. Smith told Thomas he had a lady outside, when asked to take a drink. Now was that evidence that he was there looking for a quarrel? What had Smith said or done that would convince anybody of his disposition to commit a crime? According to the testimony of this bartender, Smith, as he arose from the ground after the struggle, ran to his buggy and drove away without a hat on his head. The only witness who has said that Thomas fell from the door first was Mr. Suss. Every other witness has said the defend-ant backed out of the door with Thomas following him up. Both Hunt and Wilson said Thomas followed Smith to his buggy. The State says he was defending himself from assault. Why did he follow Smith to the buggy? Why was it necessary for the buggy? Why was it necessary for Smith to drive away from that locality? Who was the aggressor, I ask you? What motive did Winnie Smith have to take that man's life? Take that to yourselves when you go to the jury room. "Take his conduct from beginning to end, and I ask you, as you hope some day to be judged, where was the motive? Is it not incumbent on us to furnish a motive for Thomas's conduct. We see that liquor has affected him badly, and some men, when in their cups, can't bear opposition. They become irritable and ugly at times when they, come under the influence of liquor. Why was it that this man ordered Winnie Smith from this saloon, when he had been told that the defendant had had enough to drink? But the question I ask is, what motive, under God's heaven, could Smith have had to take the life of that man that morning? man that morning? "What is the story that Smith tells? He has told you how he happened to be at that place on that night. He has told you where he entered the bar, and he has told you he was struck a blow on the mouth. He told you Thomas followed him up by striking him a blow on the nose. He grabbed his head, and in attempting to get a way from the grash one of his care.

these winesses have said Mr. Thomas ever spoke in an insulting tone of voice. Those gentlemen would have you believe their immaculate client was absolutely insulted at Thomas's remark. Why, his female companion, as she sat outside in the buggy, says the two men seemed to be in pleasant conversation. Whitman says Thomas remarked: Take a drink with me; I know you Smith. I said in my opening statement, there would be evidence to show a previous acquaintance between these men, and there is. It is evident that Thomas, and there is. It is evident that Thomas, and there is. It is evident that Thomas, and there is. It is evident that man wholly bent on mischief.

"What an opportunity was given this assasin to crike a deadly blow. It may have been that Mr. Thomas got him by the throat in his efforts to save himself. Then they rolled out of the door and on to the ground together; the life blood of the victim flowing out. This assassin deliberately for tup, and, like the brute he was, struck the prostrate men another blow before take the prostrate and the pr

Thomas strike and the wounds corroborated her statement and that of other witnesses. Not only that, but Dr. Morgan says there were marks on the throat. If those marks had not been there when T.m Splann and Jerre Kinney arrested this couple at Brighton Beach, how eager they would have been to testify to that. When you want evidence, gentlemen, favorable to a defendant, you don't want to go to the defendant, you don't want to go to the no, Thomas was not insulting; his

remarks were simply the sayings of a jocular man. They would have you believe that he did not strike the defendant. Why was the murderer, as they call him, fleeing was the murderer, as they call him, fleeing and the other man pursuing? Again, I say, what motive prompted the detendant to use that knife, if it was not to protect himself? The killing of Western B. Thomas was an accident. Winnie Smith did not know he had killed him. He did not intend to kill him. He was being choked to death by a stranger; a large man, who made an unprovided attack grown him. He did not unprovoked attack upon him. He did not attempt to flee from the consequence of crime, for he was back in twenty minutes. He knew he had used the knife. Now, I say that he is corroborated all along by the State's own witnesses and yet they tell you to not give his testimony credence. Upon the face of the testimony of the police de-partment, Mr. Henry refers to him as a cut-throat and an assassin.

"When these police were asked as to the character of Winnie Smith they had a right to believe the examination was based right to believe the examination was based upon his illicit relations with this woman. Well, gentlemen of the jury, how many men do you know who are not as clean as Joseph. They are men of family and of good business reputation. They are good citizens apparently. The fact that a man has more animal passion than sense does not say that he cannot tell the truth. In the were so we are compelled to admit that a good many people whom we know, would not do for witnesses. The question of the relationship of the sexes has been one of the problems of the world since creation began and it will continue to exist so long began and it will continue to exist so long as the sexes exist as they do. My friend Henry refers to Miss Overturf as a harlot. It hasn't been long since some man led her to ruin. She hasn't been very long in sin. And yet for the purpose of contradicting the defendant they say her evidence should be thrown out. That poor girl owes her downfall to a man. She loved some man too well and having once made that mistake the doors of society were closed upon her. How many times has she atupon her. How many times has she at tempted to come back from a life of sir and how many times has she met with cold rebuff from this cruel world? and how many times has she met with a cold rebuff from this cruel world?

They say the girl tells things in court that she did not tell before. Look what she had to go through with that night. She had been out all night, she had seen that affray at the Beach and she was nervous and excited. She had been badgered by the police. Powell wasn't satisfied with talking to her, but turned her over to Splann and Kinney. And then Quigley must take a hand in the investigation. Now they ask you to wipe out this evidence with a move of the hand. It's not the business of the jury to hunt victims and make examples. It is not the business of the jury to send men to the penitentiary and damn them forever just to warn young men to beware of the lewd woman. If the laws of the Indiana statutes had been enforced on the night of July 11 Western B. Thomas would have been alive to-day and Winnie B. Smith would not be a defendant here."

MR. ENGLISH'S CHARGES DENIED Commissioner Langsdale Looks Upon the Matter as a Joke.

The denial of Commissioner English, in an interview yesterday, that the three Democratic commissioners had decided that only Democrats must be appointed to position about the monument and his charge that ing Clerk Gilliland appointed custodian, though Gilliland is not a veteran, was the subject of much talk about the Statehouse yesterday, where the monument affairs are to be investigated. President Langsdale was asked yesterday what he had to say to the interview and replied: "The monument, itself, is the only answer

I bave to make to any accusation. It must have been one of Mr. English's jokes. He visited the office to-day in my absence to

explain it. There is only one explanation to make for a statement like this, and that is to withdraw it in the same public way

"All I have to say is that I became a candidate only upon the repeated and urgent solicitation of Mr. English. I had never thought of it until he suggested it. My campaign for the place was made in accordance with his suggestions and upon the promise of his support, and this encouragement I had so far as words were the promise of his support, and this encouragement I had so far as words were concerned until the vote was taken. Of the three commissioners who promised to vote for me, prior to the adoption of his consolidation resolution of Aug. 23, 1894. he was the only one who suggested methods which would 'catch' the other commissioners. Mr. Langsdale never promised to vote for me until after the passage of that resolution. In this connection I may say that I have always venerated the old soldier and thought, as I now think, that an Indiana ex-soldier should be custodian, but, since Mr. English had caused to be enacted a law that made himself, a civilian, a commissioner, I was led to conclude from his solicitations that, if elected, there would be nothing said, since the public had not taken cognizance of the fact that Mr. English was not an old soldier."

Police Commissioner for South Bend. Governor Matthews yesterday appointed David R. Leeper police commissioner of South Bend, to succeed W. H. Lingly, resigned. The new commissioner was for ly Mayor of South Bend.

Go to the Bates Barber Shop When you want first class work. Insure your home in the Glens Falls.

Dr. Price's Cream Baking Powder World's Pair Highest Award.

The People Who Went South

For the winter have found it. If you come to us for Novelties, Fine Leather Goods, Cut Glass, etc., you will find we have just what you are looking for.

Julius C. Walk,

I sading Jewelers. 12 East Washington St.

COMMERCIAL CLUB HAVANA CIGARS

Always reliable.

Sold at DESCHLER'S,

Wholesale and Retail.

Special inducements to box trade.

Buys Mrs. Humphrey Ward's great novel, "Marcella" (if mailed, \$1.47). 2 vols in a box. The publisher's price is \$2. Order at once, before stock is exhausted.

CATHCART, CLELAND & CO. 6 East Washington Street, INDIANAPOLIS, IND.

MUSIC

To My Friends and the Public:

Having assumed the management of the entire business of Messrs. N. W. Bryant, etc., including the Sheet Music and small goods departments, I kindly solicit your patronage and good will, and will endeavor to make it to your interest, by keeping the best selection in the city of standard and also the latest popular music, as well as Violins, Guitars, Mandolins, Banjos and appurtenances, Strings, etc., etc., which we will sell at the lowest prices. We thank our many patrons, and solicit an inspection and trial from any and all in need of anything in our line. Respectfully,

C. RIEGGER, Manager for N. W. Bryant & Co.,

SCHRADER'S

EXCLUSIVE CHINA STORE

The sale to close out all stock inaugurated before the Holidays. that gave such general satisfaction, will be continued indefinitely. We call special attention to all China and Porcelain Sets of Dishes, Chamber Sets, Cut Glass, etc., that will be sold very

If you need such goods, don't fail to get our prices. It will pay.

C. SCHRADER.

SLEIGHS!

The H. T. Conde Implement Co.

27 to 33 Capitol Avenue, North.

UNDERWEAR At 20 Per Cent. REDUCTION We also have some broken lines in Underwear, which we are closing out at half price. If you just need a pair of Drawers or an Undershirt, we

P. B. AULT & CO., - - Men's Furnishers, 38 East Washington Street.

Jack Frost is Here

can save you money.

Water Pipes thawed out. Natural Gas Fires overhauled. Filling of all kinds for Stoves, Grates and

C. ANESHAENSEL & CO., Marion Block, Corner of Meridian and Ohio Streets.

